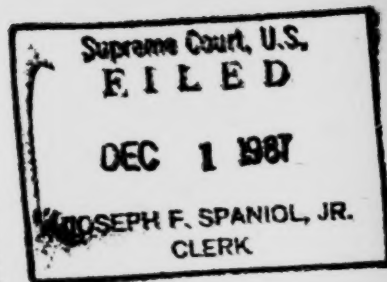


(3)

NO.  
87-703

---



IN THE  
SUPREME COURT OF THE UNITED STATES  
October Term 1987

---

WILFRIED VAN CAUWENBERGHE,

Petitioner,

versus

UNITED STATES OF AMERICA,

Respondent.

---

MOTION FOR PARTICIPATION OF NATIONAL  
ASSOCIATION OF CRIMINAL DEFENSE LAWYERS  
AS AMICUS CURIAE IN SUPPORT OF THE GRANT  
OF A WRIT OF CERTIORARI

---

BENEDICT P. KUEHNE, Esq.  
NEAL R. SONNETT, Esq.  
Counsel of Record  
SONNETT SALE & KUEHNE, P.A.  
Atico Financial Center  
Suite 500  
200 S.E. 1st Street  
Miami, Florida 33131  
Telephone: 305/358-2000  
Counsel for Amicus Curiae

7 PR



The National Association of Criminal Defense Lawyers (NACDL), through counsel, moves this Court for leave to participate as amicus curiae in support of the grant of a writ of certiorari. This motion proceeds in accordance with Supreme Court Rule 36. This motion is made with the consent of the Petitioner, Wilfried Van Cauwenberghe. Counsel has requested consent from Respondent, but has not obtained Respondent's answer at this time. In the event that Respondent consents, the written consent of all parties will be forwarded to this court. In the event that Respondent does not consent, NACDL respectfully requests leave to file an amicus curiae brief for consideration with Petitioner's petition for a writ of certiorari. In support of this motion, NACDL states:

1. The National Association of Criminal Defense Lawyers (NACDL) is a



District of Columbia non-profit corporation with a membership comprised of more than 5,000 lawyers and law professors from every state, most of whom are actively engaged in defending criminal prosecutions and protecting individual rights. NACDL was founded 26 years ago to promote the study and research in the field of criminal defense law, to disseminate and advance the knowledge of the law in the field of criminal defense practice, and to encourage the integrity, independence, and expertise of criminal defense lawyers and criminal justice professionals. Throughout NACDL's history, its members have worked to protect the rights and liberties of those accused of criminal offenses, and to promote the fair and proper administration of criminal justice. Consequently, NACDL concerns itself with the protection



of individual rights, the improvement of the criminal law, and the preservation of the integrity, independence, and competence of the defense lawyer in criminal cases.

2. The broad issue raised in this case involves the pretrial seizure and restraint and the potential for forfeiture of assets which an accused in a criminal case desired to use to retain private counsel to defend him. The practice of restricting an individual's assets to prevent those assets from being used to retain counsel or to pay necessary expenses in defending against criminal charges, threatens the Fifth and Sixth Amendment rights of those accused persons. It is the view of NACDL that courts must be hesitant to approve the pretrial restraint of assets where those assets are to be used for criminal defense purposes.





3. This legal issue should be resolved by this Court, in that it presents a question of substantial importance to the entire criminal justice system. Resolution of this issue will have a profound impact upon the administration of criminal justice in the courts and, therefore, upon the members of NACDL. It is the intention of NACDL, through an amicus brief, to advise this Court of the constitutional implications of the decision below for which certiorari review is sought. NACDL has involved itself as amicus curiae in a number of asset seizure cases in the federal appellate courts.

For the foregoing reasons, the National Association of Criminal Defense Lawyers respectfully moves this Court for leave to



participate as amicus curiae and file its accompanying brief.

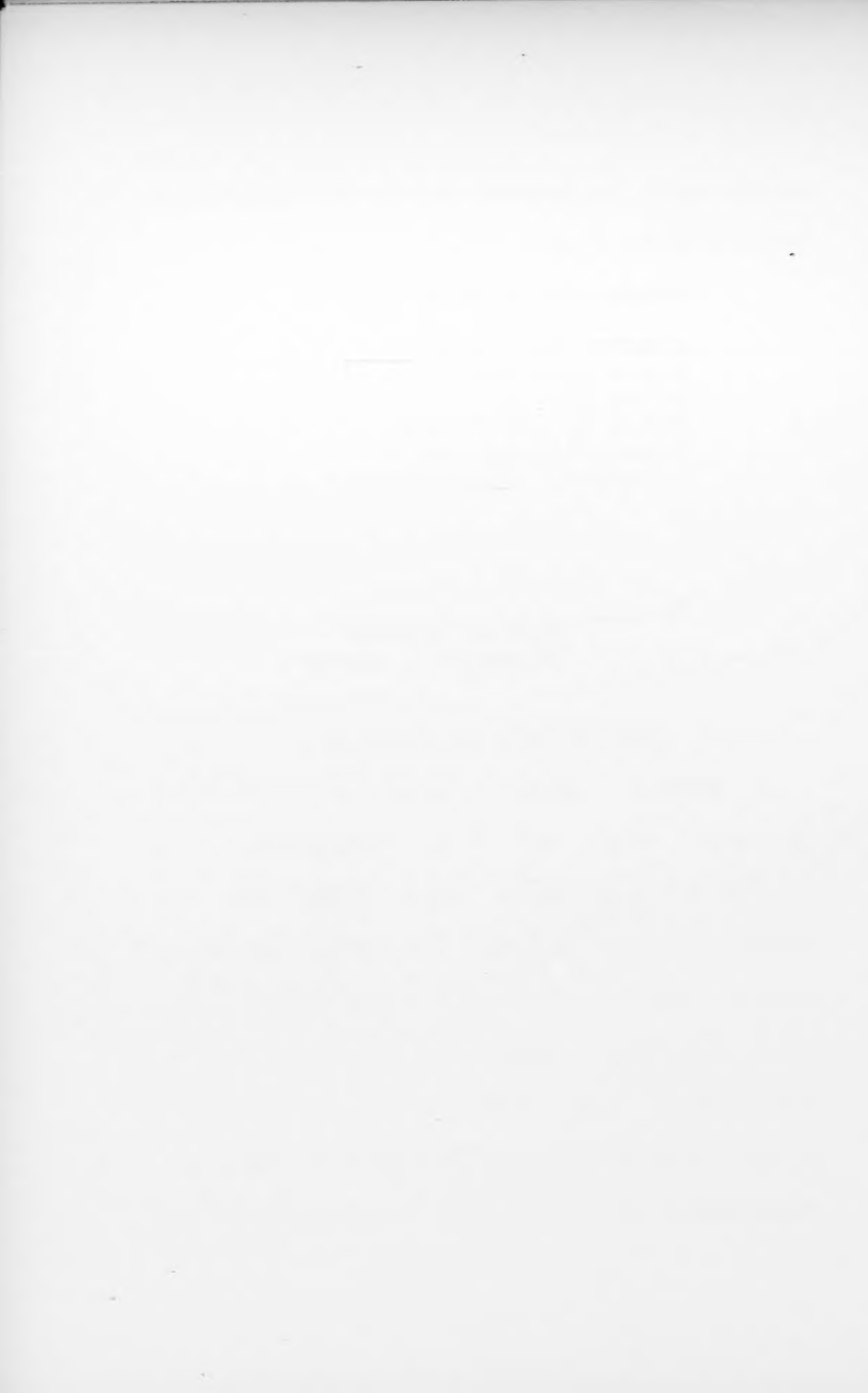
Respectfully submitted,

**SONNETT SALE & KUEHNE, P.A.**  
Atico Financial Center  
Suite 500  
200 S.E. 1st Street  
Miami, Florida 33131  
Telephone: 305/358-2000

By: Benedict P. Kuehne  
**NEAL R. SONNETT**  
**BENEDICT P. KUEHNE**

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that a true and correct copy of the foregoing was delivered by mail this 30th day of ~~November~~ <sup>Dec</sup>, 1987 to the following parties:  
John G. Kester, Esq., Williams & Connolly,  
Hill Building, 839 17th Street, N.W.,  
Washington, D.C. 20006; and to Charles  
Fried, United States Solicitor General,  
Department of Justice, Main Building,



Suite 5143, 10th Street and Constitution  
Avenue, N.W., Washington, D.C. 20530.

**Benedict P. Kuehne**

By:

---

**NEAL R. SONNETT**  
**BENEDICT P. KUEHNE**